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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 ANDRE LaSHAUN THOMPSON,

12 Plaintiff,

13 v.

14 OMARI, et al.,

15 Defendants.
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No. 2:19-CV-02565-DMC-P

ORDER

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to
18 42 U.S.C. § 1983. Pending before the Court is Plaintiff's motion to compel, ECF No. 31.

19 Plaintiff seeks an order compelling further discovery responses to the
20 interrogatories, requests for admissions, and requests for production of documents served on
21 Defendants. ECF No. 31. Defendants oppose. See ECF No. 33. Plaintiff did not reply. Plaintiff
22 claims that, on April 21 2022, he served Defendants with interrogatories, requests for admissions,
23 and requests for production of documents but received only objections. See ECF No. 31, pg. 4.

24 According to Defendants, Plaintiff's proof of service denotes that the requests
25 were served by mail on April 21, 2022, making Defendants' responses due on June 8, 2022. See
26 ECF No. 33, pg. 2. The deadline to complete fact discovery, including all responses, was June 6,
27 2022. See id. Defendants argue Plaintiff's requests were untimely served. See id.

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1 The Court **denies** Plaintiff's motion. Under the Discovery and Scheduling Order
2 applicable at the time of service, the parties had until June 6, 2022 in which to conduct
3 discovery.¹ See ECF No. 23. The Discovery and Scheduling Order provided that "[a]ll requests
4 for discovery pursuant to Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45 shall be served by such time as
5 will allow responses thereto by this discovery cut-off date." Id. Because Plaintiff served the
6 discovery requests by mail on April 21, 2022, Defendants responses would have been due June 8,
7 2022—after the discovery cutoff date (calculating a 45 day response period per this Court's
8 Discovery and Scheduling Order and allowing three additional days for service by mail under
9 Federal Rules of Civil Procedure 6(d)). See ECF No. 31, pg. 4. Consequently, Plaintiff's
10 requests were late and Defendants were not required to respond. As a result, there is nothing for
11 this Court to compel.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. Plaintiff's motion to compel discovery, ECF 31, is **denied**; and
- 14 2. The date with which to file dispositive motions is hereby extended; all
15 dispositive motions shall be filed within 60 days of the date of this order.

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17 Dated: May 15, 2023



18 DENNIS M. COTA
19 UNITED STATES MAGISTRATE JUDGE

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26 ¹ On November 9, 2022, this Court modified the schedule such that the discovery cutoff date was
27 extended until February 6, 2023. ECF No. 34, pg. 2; thus, Plaintiff had an extra 90 days with which to
28 serve additional discovery requests or re-serve his prior requests upon Defendants before the modified
discovery cutoff date, especially in light of Defendants' argument that Plaintiff's discovery at issue
here was untimely.